

## INFORMATIONAL STATEMENT REGARDING RESCISSION OF PURCHASE OF PROSPECTIVE SERVICE CREDIT AGREEMENT

As you know, the City Attorney has concluded that the purchase of prospective service credit, or airtime, from the San Diego City Employees' Retirement System ("SDCERS") below full cost was not authorized under the law. If you would like to rescind this legally unauthorized purchase, the information below is provided for your benefit. *You should, however, consult with an attorney and a tax and/or other professional of your choosing regarding the actual tax treatment that will apply in your situation. This information is not intended to be and should not be taken to be individual tax advice.*

- If you purchased service credit using amounts transferred from a City-sponsored defined contribution plan (i.e., the 401(k) plan or the SPSP), the funds paid to SDCERS could be transferred directly back to the applicable plan. Because the funds would be transferred directly from SDCERS to the other plan, and would not be made available directly to you, the transaction should not result in any tax to you. These amounts would be taxable when eventually distributed from the defined contribution plan in accordance with the plan's rules.
- If you purchased service credit using after-tax cash payments, those payments would be refunded to you. The refund will be treated as a distribution from a retirement plan and you will likely be subject to tax on a portion of the refund. The calculation of the taxable portion involves the ratio of after-tax contributions you made to your overall SDCERS benefit. It will be necessary to obtain additional information from SDCERS to determine your specific tax consequences.
- If you purchased service credit using pre-tax installment payments via payroll deduction, you may be able to transfer those amounts to a City-sponsored defined contribution plan, but you will not be permitted to have the money refunded to you. The direct plan-to-plan transfer should not result in any tax to you. Amounts transferred to a defined contribution plan would be subject to that plan's rules regarding distributions and legal contribution limits and will be taxable when eventually distributed to you.

A transfer back to a qualified plan will result in a small transactional fee charged by the qualified plan administrator. This fee would be borne by the requesting employee.

Accompanying this statement is a written agreement for download and execution to commence the PSC reversal request process. Employees are encouraged to review it, obtain professional advice as needed and desired, execute the document if desired, and submit same to SDCERS for implementation.

Please be aware that SDCERS may deny your request for a transfer of your service credit payment to another plan or as a refund to you. SDCERS has taken the position that transfers back to the defined contribution plans such as SPSP and 401(k) cannot be permitted without jeopardizing the tax-qualified status of those plans. SDCERS has also stated that refunds of your payroll deposits are permitted only if you selected the installment purchase method and have not made all payments. We are attempting to resolve these matters with SDCERS.